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EXAMINER

TERMANINI, SAMIR

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2178

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DELIVERY MODE

12/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/730,655

Applicant(s)

FRIEDMAN ET AL.

Examiner

Samir Termanini

Art Unit

2178

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-14 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

BACKGROUND

1. This Final Office Action is responsive to the following communications:
Amendment filed on 9/23/2008 .

2. Claims 1-14 are pending in this case. Applicant amended claim 1. Claim 1 is the sole independent claim.

3. Applicant's arguments filed 9/23/2008 have been fully considered but they are not persuasive. Therefore, the rejection of claims 1-14 under 35 U.S.C. 102(e) are being maintained.

PRIORITY

4. The petition under 37 CFR 1.78(a)(3), filed February 1, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application was granted and a copy of that decision was mailed under separate cover on 6/2/2008.

INFORMATION DISCLOSURE STATEMENT

5. The information disclosure statement (IDS) submitted on 10/26/2007, after the mailing date of the Final Office on 7/24/2007, was previously considered by the examiner.

CLAIM REJECTIONS-35 U.S.C. §102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-14** rejected under 35 U.S.C. 102(e) as being anticipated by *Humpleman et al.* (US Pat. No. 6,546,419).

As to independent **claim 1**, *Humpleman et al.* teach a computer-readable medium encoded with a data structure ("...the client device 12 can include a renderer 24 for displaying a GUI 18 using a GCO 22 stored in the client device 12 or transferred to the client device 12 over the network from a desired server device 14...", col. 5, lines 33-40) (emphasis added) formatted according to extensible markup language (XML) ("The comprehensive definition or data base utilizing XML" col. 12, lines 40-42) including data representative of a canonical UI description (INTERFACE-A.XML "the application interface description," col. 14, lines 50-55) of a device to be controlled for use by a universal console ("The document INTERFACE-A.XML describes the objects and methods supported by the Service A according to the document type definition INTERFACE.DTD for Service A." col. 12, lines 45-55) said universal console operable to receive at least one user preference for rendering said UI description, ("...when the user controls a server device 14 using a first client device 12, upon completion of the user control, the information in the GUI 18 of the server device 14 at the first client device 12 is saved by the server device 14 in the control state data 26 of the server device 14," col. 6, lines 7-17) wherein said UI description comprises: (1) action-commands to which

said device responds ("user command...", See Claim 36), and (2) descriptors for rendering a user interface on said universal console, said descriptors providing at least one prompt for a user to select at least one of said action-commands ("...a client device capable of displaying user interface data, the client device including user interface controller means for displaying said user interface of the first server device on the client device to accept input from a user, and for sending control and command data to the first server device based on the user input...", See Claim 36), wherein said at least one prompt is selected in accordance with said at least one user preference,

When the user controls the server device 14 using a second client device 12, the control state data 26 is made available to the user via the GUI 18 of the server device 14 at the second client device 12 for further control. The user can also use the first client device 12 at a later time to control the server device 14, whereupon the control state data 26 is made available to the user via the GUI 18 of the server device 14 at the first client device 12 for further control.

(col. 6, lines 20-31) (emphasis added) said at least one user preference comprising at least one mode of the group comprising visual ("GUI 18"; col. 6, lines 20-31), aural ("the resulting data stream may be appropriate for both viewing and recognition. Of course, acoustic data may be likewise processed using acoustic models with variable parameters," col.66, lines 45-60) , and tactile user interface modes ("For example, if the present control 2402 is interfaced to a controlled infusion pump for, e.g., morphine solution, in e.g., a terminally ill patient," col. 132, lines 45-60) , wherein the descriptors are capable of being instantiated on the user interface in accordance with any one of said user interface modes.

As to dependent **claims 2 and 3**, *Humpleman et al.* teach a data structure according to claim 1, wherein said UI description includes a representation associated with a parameter for

selecting ("selection information on the user interface" col. 3, lines 10-15) a subset of a set ("to include selection information for the second home device if at least a portion of the first and second capabilities data match" col., lines 10-15).

As to dependent **claim 3**, *Humpleman et al.* further teach a parameter for selecting from a set ("parameters" col., lines 5-10; see also code in col. 19).

As to dependent **claim 4**, *Humpleman et al.* further teach that the UI description includes a representation associated with a parameter for Off/On (e.g. "to turn...system off" col. 22, lines 40-50)

As to dependent **claim 5**, *Humpleman et al.* further teach a parameter for selecting an integer n in a range (e.g. "parameter value="4>channel</parameter>"" col. 19, lines 15-35) .

As to dependent **claim 6**, *Humpleman et al.* further teach A data structure according to claim 1, wherein said UI description includes a representation associated with a parameter for selecting a real number ("<parameter value="19990401T19:05: 35">startTime</parameter> " col. 19, lines 25-38).

As to dependent **claim 7**, *Humpleman et al.* further teach that the description includes a representation associated with a parameter type for an arbitrary string (e.g. "<name>startTime</name> " col. 19, lines 1-5).

As to dependent **claim 8**, *Humpleman et al.* further teach that the arbitrary string s is to be selected from a suggestion set ("session manager 36 disables the selection icons Serv3 and Serv 4 for server devices SERVER3 and SERVER4, respectively. The user can then click on the icon Sew2 to command and control the server device SERVER2." col. 8, lines 55-65).

As to dependent **claim 9**, *Humpleman et al.* further teach that the description includes a representation associated with a parameter type for the modification of a given first string s, resulting in a second string s' ("A group of such message items are assembled to create a complete [second] command string." col. 11, lines 10-15).

As to dependent **claim 10**, *Humpleman et al.* further teach that the description includes a representation associated with a parameter type for ordering the elements of set A into A' ("Appendix 4 shows examples for changing from CAL command language to XML RPC format." col. 24, lines 60-63).

As to dependent **claim 11**, *Humpleman et al.* further teach that the UI description includes a representation associated with a parameter type for pairing set A elements with set B elements ("if at least a portion of the first and second capabilities data match, whereby the first and second home devices are compatible... And, the structured format can include the XML format " col. 3, lines 10-18) .

As to dependent **claim 12**, *Humpleman et al.* further teach that the description includes a representation associated with a group construct that contains at least one of commands and subgroups ("For example, the subset can be selected to provide global or restricted use of all available services on a home network." col., lines 28-30).

As to dependent **claim 13**, *Humpleman et al.* further teach that the UI description includes a representation associated with a command construct that specifies at least one action to send to the controlled element that will carry out the action-command (e.g. "<object> DVCRI.record </object> <method> oneTouchRecod </method> " col. 19, lines 25-38).

As to dependent **claim 14**, *Humpleman et al.* further teach that the UI description includes a description of the parameters associated with the at least one action (e.g. "value="19990401T19:05: 35"> startTime </ parameter> <parameter value="2:00:00"> recordTime </ parameter>"col. 19, lines 25-38).

RESPONSE TO ARGUMENTS

8. Applicant arguments, see p. 7, filed 9/23/2008, with respect to the Rejections cited by the Examiner in the previous Office Action (dated 6/23/2008), under 35 U.S.C. §102(e) have been fully considered but are not persuasive.

Applicant argues (at pp.7):

Applicants respectfully submit that the cited passages from Humpleman do not disclose the capability of instantiating any one of a visual, an aural and a tactile mode of communication as now recited in claim 1. Applicants respectfully request reconsideration of the rejection of claim 1.

In response, the following teachings have been cited to meet the new limitations: ...said at least one user preference comprising at least one mode of the group comprising visual ("GUI 18"; col. 6, lines 20-31), aural ("the resulting data stream may be appropriate for both viewing and recognition. Of course, acoustic data may be likewise processed using acoustic models with variable parameters," col.66, lines 45-60) , and tactile user interface modes ("For example, if the present control 2402 is interfaced to a controlled infusion pump for, e.g., morphine solution, in e.g., a terminally ill patient," col. 132, lines 45-60).

CONCLUSION

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US-6,133,847 A 10-2000 Yang, Ping-Fai
US-6,182,094 B1 01-2001 Humpleman et al.
US-6,198,479 B1 03-2001 Humpleman et al.
US-6,243,707 B1 06-2001 Humpleman et al.
US-6,288,716 B1 09-2001 Humpleman et al.
US-2001/0033243 A1 10-2001 Harris et al.

US-6,370,582 B1 04-2002 Lim et al.
US-6,374,296 B1 04-2002 Lim et al.
US-6,400,996 B1 06-2002 Hoffberg et al.
US-6,466,233 B1 10-2002 Mitani, Hitoshi
US-6,546,419 B1 04-2003 Humpleman et al.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samir Termanini at telephone number is (571) 270-1047. The Examiner can normally be reached from 9 A.M. to 6 P.M., Monday through Friday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Stephen S. Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Samir Termanini/

Examiner, Art Unit 2178

/Stephen S. Hong/

Supervisory Patent Examiner, Art Unit 2178